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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,589	09/17/2003	Christoph Schwald	BP-86	3648

7590
Friedrich Kueffner
Suite 910
317 Madison Avenue
New York, NY 10017

07/31/2007

EXAMINER

WENDELL, ANDREW

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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07/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/664,589	Applicant(s) SCHWALD, CHRISTOPH	
	Examiner Andrew Wendell	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/14/2007 has been entered.

Priority

1. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a translation of the foreign application should be submitted under 37 CFR 1.55 in reply to this action.
2. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 119(e), a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the instant application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If

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the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference

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was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baranowski et al. (US Pat# 6,473,630) in view of Baranowski et al. (US Pat# 2002/0067825) and further in view of Izawa et al. (US Pat Pub# 2001/0013983).

Regarding claim 1, Baranowski et al. apparatus for powering a wireless headset used with a personal electronic device teaches a storage battery 205 (Fig. 2); a connector socket for receiving a charge plug of an electric connection into a power pack (Col. 3 lines 47-60); at least one miniature loudspeaker (Col. 3 lines 3-12); audio electronics connected to the loudspeaker (Col. 5 lines 19-27); a reception part connected to the audio electronics for receiving wireless signals (Col. 3 lines 20-27); charging electronics 203 (Fig. 2) operative to monitor a charging process of the storage battery (Col. 4 lines 5-28), the charging electronics having a first contact within the

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connector socket and contacting the surface areas of the charge plug when the plug is inserted into the connector socket , wherein current is supplied from the power pack to the charging electronics via the first contact when the charge plug is inserted into the connector socket (Col. 3 lines 47-60). Baranowski et al. fails to teach clearly receiving an electric connection with an audio source and a connector socket that handles both current and an audio signal.

Baranowski et al. integrated headphones for audio programming and wireless communications with a biased microphone boom teaches a contact within the connector socket and contacting the surface areas of a signal plug when the signal plug is inserted into the connector socket, the signal plug being part of an electric connection with an audio device for the transfer of signals (Fig. 1, Sections 0010 and 0020-0023), and the audio device is configured to transmit a stereo signal (Section 0022 points out the signal can be from a cd player, cassette tape player, radio tuner, a television, and etc. which are obvious types of stereo signals and Section 0021 points out the speakers are stereo) from the audio device to at least the one miniature loudspeaker via the contact when the signal plug is inserted into the connector socket (Fig. 1, Sections 0010 and 0020-0023).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate receiving an electric connection with an audio source as taught by Baranowski et al. into Baranowski et al. apparatus for powering a wireless headset used with a personal electronic device in order to give the user more selectivity (Sections 0007-0008).

Baranowski and Baranowski both fail to teach a connector socket that handles both current and an audio signal.

Izawa's reproducing apparatus teaches a connector socket 6 (Fig. 3) that handles both current and an audio signal (Section 0089 and 0105, a USB (i.e. connector socket) has contacts for both a current and audio signals).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a connector socket that handles both current and an audio signal as taught by Izawa into receiving an electric connection with an audio source as taught by Baranowski et al. into Baranowski et al. apparatus for powering a wireless headset used with a personal electronic device in order to reduce consumption of power of the battery and increasing the lifetime of a battery (Section 0010).

Regarding claim 4, Baranowski further teaches wherein the signal plug is a conventional stereo jack (Section 0022 points out the signal can be from a cd player, cassette tape player, radio tuner, a television, and etc. which are obvious types of stereo signals and Section 0021 points out the speakers are stereo).

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baranowski et al. (US Pat# 6,473,630) in view of Baranowski et al. (US Pat# 2002/0067825) and further in view of Izawa et al. (US Pat Pub# 2001/0013983) as applied to claim 1 above, and further in view of Wingate (US Pat# 6,006,115).

Regarding claim 2, Baranowski et al. apparatus for powering a wireless headset used with a personal electronic device in view of Baranowski et al. integrated

headphones for audio programming and wireless communications with a biased microphone boom and further in view of Izawa's reproducing apparatus teaches the limitations in claim 1. Baranowski et al., Baranowski et al., and Izawa fails to teach a switch between audio and reception signal.

Wingate's wireless headphones for entertainment and telephonic communication teaches the audio electronics are operative to switch off the reception part when the signal plug is inserted (Col. 2 line 15-Col. 3 line 13, this reference teaches switching from an audio source to a telephone conversation when activated but the same principle can apply for the limitation above.).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a switch between audio and reception signal as taught by Wingate into a connector socket that handles both current and an audio signal as taught by Izawa into receiving an electric connection with an audio source as taught by Baranowski et al. into Baranowski et al. apparatus for powering a wireless headset used with a personal electronic device in order to prevent the user from missing calls while enjoying other audio programming (Col. 2 lines 4-12).

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baranowski et al. (US Pat# 6,473,630) in view of Baranowski et al. (US Pat# 2002/0067825) and further in view of Izawa et al. (US Pat Pub# 2001/0013983) as applied to claim 1 above, and further in view of Adams (US Pat# 6,594,366).

Regarding claim 3, Baranowski et al. apparatus for powering a wireless headset used with a personal electronic device in view of Baranowski et al. integrated headphones for audio programming and wireless communications with a biased microphone boom and further in view of Izawa's reproducing apparatus teaches the limitations in claim 1. Baranowski et al., Baranowski et al., and Izawa fails to teach recognizing the type of plug.

Adams headset/radio sensing jack teaches wherein the plugs have different electrically conducting or electrically insulating surface areas, the socket being combined as a common socket for alternately receiving the charge plug (audio plug) and the signal (telephone) plug, whereby the audio electronics recognize the type of plug inserted by contacting the different electrically conducting or electrically insulating surface areas of the plugs (Col. 1 lines 64-67 and Col. 2 lines 39-47).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate recognizing the type of plug as taught by Adams into a connector socket that handles both current and an audio signal as taught by Izawa into receiving an electric connection with an audio source as taught by Baranowski et al. into Baranowski et al. apparatus for powering a wireless headset used with a personal electronic device in order to make it easier to switch between audio or telephone functions.

Response to Arguments

Applicant's Remark	Examiner's Response
"However, this is exactly where the	This distinction is not claimed or clear


present invention is distinguished over the prior art. This is because the present invention does not seek a simultaneous transmission of audio data and charging.”	enough to the examiner when viewing the claims. Also, the advantages given by the applicant are not claimed and therefore have no patentable weight in determining the patentability of the invention.
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Wendell whose telephone number is 571-272-0557. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Andrew Wendell

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Examiner
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7/3/2007

Lana M. Le
7-23-07

LANA LE
PRIMARY EXAMINER